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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,616	12/22/2003	Jeff Scott Eder	AR - 61	8217
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EXAMINER				
LIVERSEIDGE, JENNIFER L				
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3692				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/743,616

Applicant(s)

EDER, JEFF SCOTT

Examiner

Jennifer Liversedge

Art Unit

3692

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 64-96 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 64-96 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/ISD)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 1/21/2007

DETAILED ACTION

Response to Amendment

This Office Action is responsive to Applicant's amendment and request for continued examination of Application 10/743,616 filed on November 6, 2007.

The amendment contains previously presented claims: 66-67, 69-74, 77-78 and 80-96.

The amendment contains amended claims: 64-65, 68, 75-76 and 79.

Claims 1-63 have been previously canceled.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 6, 2007 has been entered.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 11/21/2007 is being considered by the examiner. However, the pieces of literature submitted in the IDS were all published after the priority date being claimed in the present application and therefore do not weigh on the patentability of the present application.

Additionally, Examiner notes the receipt of the Declaration under Rule 132 received on 11/6/2007 with the amendment as submitted by Dr. Peter Brous.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 64-96 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. A complete explanation of all combinations for activity selection as cited in claim 1 are critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

As the claim is set forth as a Markush claim wherein the last element of group is "and combinations thereof", the written description must include a description of how the activities, if selected in any combination, would operate together. For example, the invention must be operable and enabled if the activities of and only of, for example, optimizing one or more aspects of enterprise financial performance and valuing a real option are selected. In the particular instance, the written description does not support the selection of only these two activities. All permutations thereof are applicable in describing the invention given the Markush group with the last element of the group being "and combinations thereof". The same rejection applies to all depended claims in the same form.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 64, 66-69, 71-73, 75, 77-80, 82-84, 86-91 and 93-95 are rejected under 35 U.S.C. 103(a) as being unpatentable over "How to sort out the premium drivers of post-deal value" by Daniel W. Bielinski (further referred to as Bielinski), in view of "Outdated corporate reporting practices fail to measure companies' true value" in M2 Presswire (further referred to as M2) and further in view of "Finance and economics: shining a light on company accounts" in The Economist (further referred to as The Economist).

Regarding claims 64, 75 and 86-87, Bielinski discloses an enterprise management method, program storage device with instructions and apparatus (pages 1-5), comprising:

Preparing a plurality of transaction data related to a commercial enterprise for use in processing, developing a computational model of enterprise market value by element of value and segment of value by completing a series of multivariate analyses that utilize at least a portion of said data (pages 1-5), and

Completing activities selected from the group consisting of: determining an element of value contribution, quantifying an element of value impact on enterprise financial performance, completing an analysis of enterprise financial performance, optimizing one or more aspects of enterprise financial performance, simulating an enterprise financial performance, optimizing a future enterprise market value, quantifying a future enterprise market value, creating a management report, calculating a real option discount rate, valuing a real option, valuing a share of enterprise stock, determining a target share price and combinations thereof where a segment of value further comprises a current operation and a segment of value selected from the group consisting of real option and excess financial asset and combinations thereof, and where (pages 1-5).

Bielinski does not disclose valuing an enterprise using the elements of market sentiment and derivative.

However, M2 discloses valuing an enterprise using the elements of market sentiment (pages 2-3). It would be obvious to one of ordinary skill in the art at the time

of the invention to modify the corporate valuation method as disclosed by Bielinski to adapt the use of valuing market sentiment as disclosed by M2. The motivation would be to account for all of a corporation's assets among which includes market sentiment.

Neither Bielinski nor M2 disclose valuing an enterprise using derivatives. However, The Economist discloses where derivatives are now being marked to market and included on a corporation's balance sheet with other assets (pages 1-2). It would be obvious to combine the use of recognizing derivatives as an asset on a corporation's balance sheet for purposes of total valuation as disclosed by The Economist with the method of valuing and accounting for all of a corporations assets in determining its value as disclosed by M2 and Bielinski. The motivation would be to capture all of a corporation's assets in determining its value.

Regarding claims 66, 77 and 88, Bielinski discloses an enterprise management method, program storage device with instructions and apparatus where the elements of value are selected from the group consisting of alliances, brands, channels, customer relationships, employees, employee relationships, intellectual capital, intellectual property, partnerships, processes, production equipment, vendors, vendor relationships and combinations thereof (pages 2-4).

Regarding claims 67, 78 and 89, Bielinski discloses an enterprise management method, program storage device with instructions and apparatus where preparing data

for use in processing further comprises integrating data from a plurality of enterprise related systems in accordance with a common schema (pages 1-5).

Regarding claims 68, 79 and 90, Bielinski, M2 and The Economist disclose an enterprise management method, program storage device with instructions and apparatus where optimizing one or more aspects of enterprise financial performance further comprises identifying value driver changes that will optimize one or more aspects of financial performance where said aspects of financial performance are selected from the group consisting of revenue, expense, capital change, cash flow, current operation value, real option value, derivative value, future market value, market sentiment value, market value and combinations thereof (pages 1-5) and as provided in claims 64, 75 and 86.

Regarding claims 69, 80 and 91, Bielinski, M2 and The Economist disclose an enterprise management method, program storage device with instructions and apparatus wherein a series of multivariate analyses are selected from the group consisting of identifying one or more previously unknown item performance indicators, discovering one or more previously unknown value drivers, identifying one or more previously unknown relationships between one or more value drivers, identifying one or more previously unknown relationships between one or more elements of value, quantifying one or more inter-relationships between value drivers, quantifying one or more impacts between elements of value, developing one or more composite variables,

developing one or more vectors, developing one or more causal element impact summaries, identifying a best fit combination of predictive model algorithm and element impact summaries for modeling enterprise market value and each of the components of value, determining a net element of value impact for each segment of value, determining a relative strength of a plurality of elements of value between two or more enterprises, developing one or more real option discount rates, calculating one or more real option values, calculating an enterprise market sentiment value by element of value, and combinations thereof (pages 1-5) and as provided in claims 64, 75 and 86.

Regarding claims 71, 82 and 93, Bielinski discloses an enterprise management method, program storage device with instructions and apparatus wherein enterprise related transaction data are obtained from systems selected from the group consisting of advanced financial systems, basic financial systems, alliance management systems, brand management systems, customer relationship management systems, channel management systems, estimating systems, intellectual property management systems, process management systems, supply chain management systems, vendor management systems, operation management systems, sales management systems, human resource systems, accounts receivable systems, accounts payable systems, capital asset systems, inventory systems, invoicing systems, payroll systems, purchasing systems, web site systems, the Internet, external databases and combinations thereof (pages 1-5).

Regarding claims 72, 83 and 94, Bielinski discloses an enterprise management method, program storage device with instructions and apparatus wherein an enterprise further comprises a single product, a group of products, a division or an entire company (pages 1-5).

Regarding claim 73, 84 and 95, Bielinski, M2 and The Economist disclose an enterprise management method, program storage device with instructions and apparatus wherein a computational model of enterprise market value further comprises a combination of models selected from the group consisting of a predictive component of value model, a real option discount rate model, a real option valuation model, a derivative valuation model, an excess financial asset valuation model, a market sentiment model by element of value and combinations thereof (pages 1-5) as provided in claims 64, 75 and 86.

Claims 65 and 76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bielinski, M2 and The Economist and further in view of "The use of options theory to value research in the service sector" by K. Jensen and P. Warren (further referred to as Jensen).

Neither Bielinski, M2 nor The Economist disclose where a real options segment of value is valued using a discount rate that is a function of the relative ranking of one or more enterprise elements of value. However, Jensen discloses where a real options segment of value is valued using a discount rate that is a function of the relative ranking

of one or more enterprise elements of value (pages 1-8). It would be obvious to one of ordinary skill in the art at the time of the invention to use the strength of an element of value to value a real option as the companies current value elements would be most representative of the value at which potential future projects would be evaluated.

Claims 70, 74, 81, 85, 92, and 96 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bielinski, M2, The Economist and further in view of "Machine-learning research: Four current directions" by Thomas G. Deitterich (further referred to as Deitterich).

Regarding claims 70, 81 and 92, neither Bielinski, M2 nor The Economist disclose an enterprise management method, program storage device with instructions and apparatus wherein a predictive model algorithm is selected from the group consisting of neural network; classification and regression tree; generalized autoregressive conditional heteroskedasticity; regression; generalized additive; redundant regression network; rough-set analysis; Bayesian; multivariate adaptive regression spline and support vector method.

However, Deitterich discloses an enterprise management method, program storage device with instructions and apparatus wherein a predictive model algorithm is selected from the group consisting of neural network; classification and regression tree; generalized autoregressive conditional heteroskedasticity; regression; generalized

additive; redundant regression network; rough-set analysis; Bayesian; multivariate adaptive regression spline and support vector method (pages 1-39).

It would be obvious to one of ordinary skill in the art to modify the computerized models for determining valuation by using multiple value drivers as disclosed by Bielinski, M2 and The Economist to adapt the use of the model algorithms as disclosed by Deitterich. The motivation would be to use an algorithm from among the many known algorithms for performing computations.

Regarding claims 74, 85 and 96, Bielinski discloses an enterprise management method, program storage device with instructions and apparatus where genetic algorithms are used to identify changes that will optimize one or more aspects of enterprise financial performance and multi-criteria optimization models are used to identify the changes that will optimize two or more aspects of enterprise financial performance (pages 1-5).

Neither Bielinski, M2 nor The Economist disclose an enterprise management method, program storage device with instructions and apparatus where a Markov Chain Monte Carlo model is used to identify one or more changes that will optimize one aspect of enterprise financial performance. However, Dietterich discloses the use of a Markov Chain Monte Carlo model for optimization (pages 5-6). It would be obvious to one of ordinary skill in the art to modify the computerized models for determining valuation by using multiple value drivers as disclosed by Bielinski, M2 and The Economist to adapt the use of the Markov Chain Monte Carlo model as disclosed by Deitterich. The

motivation would be to use a model which is used with neural networks for performing combinatorial optimization computations.

Response to Arguments

Applicant's arguments with respect to claims 64-96 have been considered but are moot in view of the new ground(s) of rejection as set forth in the reconsideration after filing an RCE.

Conclusion

Any inquiry concerning this communication should be directed to Jennifer Liversedge whose telephone number is 571-272-3167. The examiner can normally be reached on Monday - Friday, 8:30 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached at 571-272-6702. The fax number for the organization where the application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3692

Jennifer Liversedge

Examiner

Art Unit 3692

/Harish T Dass/

Primary Examiner, Art Unit 3692